

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

LIMANE HOUANCHE,

tmd3574/nk
SEPTEMBER 9, 2019
9:00 A.M.

Case No: 1-19-41508-ess

Hon. Elizabeth S. Stong

NOTICE OF MOTION

Debtor

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PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Honorable Elizabeth S. Stong, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, Courtroom 3585 on September 9, 2019 at 9:00AM or as soon thereafter as counsel can be heard, seeking an order that strikes, reduces, or sets the amount of certain exemptions, pursuant to Fed. R. Bankr. P. 4003(b), and the Chapter 13 Trustee requests such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York
July 1, 2019

/s/ Nathan Kaufman
NATHAN Z. KAUFMAN, STAFF ATTORNEY FOR
MARIANNE DeROSA, TRUSTEE
100 JERICO QUADRANGLE; STE 127
JERICO, NY 11753
(516) 622-1340

UNITED STATES BANKRUPTCY COURT
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IN RE:

LIMANE HOUANCHE,

Case No: 1-19-41508-ess

Hon. Elizabeth S. Stong

Debtor

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APPLICATION

TO THE HONORABLE ELIZABETH S. STONG, U.S. BANKRUPTCY JUDGE:

Nathan Z. Kaufman, Esq., staff attorney for MARIANNE DEROSA, ESQ., the Chapter 13 Trustee (the "Trustee") in the above-captioned estate, respectfully represents the following:

1. The Section 341 Meeting of Creditors in this Case was closed June 6, 2019. The Debtor's Schedule C was filed with the Debtor's schedules at docket number 8 (DN 8-2). Debtor elected state non-bankruptcy federal exemptions pursuant to 11 U.S.C. §522(b)(3)

2. Debtor's Schedule C does not state values for any exemptions claimed, instead taking the "Schwab option" (100% of value up to statutory limit) for each. However, the Schedule C is incomplete, as the entire column for "Specific laws that allow exemption" has been left entirely blank.

3. The Trustee objects to each and every exemption claimed on the Debtor's Schedule C because the Debtor failed to list any statutes allowing the exemption. The attempt to claim each exemption is incomplete, and leaves the Trustee and creditors in the position of guessing at the Debtor's intentions in listing each claim for exemption.

4. The Trustee objects to the following exemptions claimed on the Debtor's Schedule C, for the additional reasons stated:

- a. "House 2," A/B Line 1.2, value \$87,500.00, and "House 3," value \$10,000, A/B line not indicated: Upon information and belief, no applicable exemption exists under the elected statutory exemption scheme. The assets referenced are located outside the State of New York.
- b. "House 1," 501 Eastern Parkway Brooklyn, NY, A/B Line 1.1, value \$275,000.00: Pursuant to CPLR §5205(a)(9) and Debt. & Cred. L. §283(2), the Debtor cannot claim both a homestead exemption under CPLR §5206 and an exemption in cash or cash equivalents under CPLR §5205(a)(9) or Debt. & Cred. L. §283(2), as the Debtor appears to be doing here.
- c. Cash, Bank Deposits, and Tax Refund, A/B Lines 16, 17, and 28, value \$2,162.00 total: Pursuant to CPLR §5205(a)(9) and Debt. & Cred. L. §283(2), the Debtor cannot claim both a homestead exemption under CPLR §5206 and an exemption in cash or cash equivalents under CPLR §5205(a)(9) or Debt. & Cred. L. §283(2), as the Debtor appears to be doing here.
- d. "Car," A/B Line 3.1, value \$3,000.00, and "Car 2," A/B Line 3.2, value \$4,000.00. Pursuant to Debt. & Cred. L. §282(1) and CPLR §5205(a)(8), each debtor is only

entitled to one motor vehicle exemption. These exemptions are therefore mutually exclusive.

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order striking each exemption on the Debtor's Schedule C, and for such other and further relief as the Court may deem just and proper.

Dated: Jericho, New York
July 1, 2019

s/Nathan Z. Kaufman
Nathan Z. Kaufman, Staff Attorney for
Marianne DeRosa, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

Case No: 1-19-41508-ess

LIMANE HOUANCHE,

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

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This is to certify that I, Nathan Z. Kaufman, have this day served a true, accurate and correct copy of the within Notice of Motion and Application Objecting to Debtor's Claims of Exemption by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Limane Houanche
218-19 131st Avenue
Springfield Gardens, NY 11413

Vivek Suri, Esq.
20 Vesey Street
Suite 300
New York, NY 10007

Office of the United States Trustee
Eastern District of NY (Brooklyn Office)
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014

Aleksandra K Fugate, Esq.
WOODS OVIATT GILMAN LLP
700 Crossroads Building
2 State Street
Rochester, NY 14614

Shapiro, DiCaro & Barak, LLC
175 Mile Crossing Blvd.
Rochester, NY 14624

Sheila E. Calello, Esq.
McCarter & English, LLP
Four Gateway Center, 100 Mulberry Street
Newark, New Jersey 07102

This July 1, 2019

/s/Nathan Z. Kaufman
Nathan Z. Kaufman, Staff Attorney
Office of the Standing Chapter 13 Trustee
Marianne DeRosa, Esq.
100 Jericho Quadrangle; Suite 127
Jericho, NY 11753
(516) 622-1340

CASE NO: 1-19-41508-ess
Hon. ELIZABETH S. STONG

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

LIMANE HOUANCHE,

DEBTOR.

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NOTICE OF MOTION AND OBJECTION TO DEBTOR'S CLAIMS OF EXEMPTION

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MARIANNE DeROSA, TRUSTEE
100 JERICHO QUADRANGLE; SUITE 127
JERICHO, NY 11753
(516) 622-1340

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